

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-95-C - ORDER NO. 2003-451(A)
JULY 29, 2003

IN RE: Application of ConnectNow! Telecomm, LLC) AMENDED ORDER
for a Certificate of Public Convenience and) GRANTING
Necessity to Provide Local Exchange) APPLICATION
Telecommunications Services and for)
Flexible Regulations.)

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of ConnectNow! Telecomm, LLC ("ConnectNow" or "the Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate in South Carolina to provide local telecommunications services on a resale and facilities basis through the use of the Unbundled Network Elements Platform (UNE-P) throughout the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2002) and the Regulations of the Public Service Commission of South Carolina. By its Application, ConnectNow also requests a flexible rate structure for its local exchange service offerings consistent with the principles and procedures set forth in Commission Order No. 98-165 in Docket No. 97-467-C. ConnectNow further requests a waiver of 26 S.C. Code Ann. Regs. 103-631 which requires the Company to publish a telephone directory, from the requirement to file with the Commission a service area map, and to maintain its books and records in conformance with the Uniform System of Accounts (USOA).

ConnectNow requests that it alternatively be permitted to maintain its books of accounts in accordance with Generally Accepted Accounting Principles (GAAP).

The Commission's Executive Director instructed ConnectNow to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of ConnectNow's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. ConnectNow complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. The South Carolina Telephone Coalition ("SCTC") filed a Petition to Intervene in this matter on May 1, 2003. Prior to a hearing being held in this matter, ConnectNow and the SCTC entered into a Stipulation which is incorporated in this Order as detailed below.

A hearing was convened on June 25, 2003, at 10:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable Mignon Clyburn, Chairman, presided. ConnectNow was represented by Brian A. Autry, Esquire. Jeffrey Nelson, Staff Counsel, represented the Commission Staff.

AnDraco Carter, President of ConnectNow, appeared and testified in support of the Application. The record reveals that ConnectNow is a South Carolina corporation which is headquartered in Columbia, South Carolina. According to Mr. Carter, ConnectNow seeks authority to offer, on a resale basis and through the use of UNE-P, local exchange telecommunications services within South Carolina. Mr. Carter further testified that although the Petition requested a Certificate to provide local service on a non-facilities basis that ConnectNow was requesting from the Commission to be licensed

as a facilities based (i.e. use of UNE-P) and resale local exchange telecommunications services carrier. Mr. Carter testified that this would allow ConnectNow to negotiate leases and operate as a UNE-P carrier. Mr. Carter further testified that ConnectNow would initially offer its local services on a prepaid basis to consumers which otherwise may be unable to obtain local telephone service. While ConnectNow does not intend to install any transmission or switching facilities in South Carolina, ConnectNow will engage in “switchless” resale of services and will provide services via UNE-P. Mr. Carter explained the Company’s request for authority and the record reveals the Company’s services, operations, and marketing procedures.

Mr. Carter also testified regarding ConnectNow’s technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Finally, Mr. Carter testified that ConnectNow will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders. In this regard, he agreed to amend ConnectNow’s proposed tariff by deleting Section 2.5 of the proposed tariff (addressing liabilities) and replacing it with language simply indicating that the Company will comply with the rules and regulations of the Commission.

Mr. Carter also offered that approval of ConnectNow’s Application would serve the public interest by allowing customers to obtain very competitive rates and services, by promoting efficient use of the underlying network, by increasing access revenues for underlying carriers, and by increasing tax revenue for the State of South Carolina.

Finally, ConnectNow requested that it be exempt from any record-keeping rules or requirements mandating that ConnectNow maintain its financial records in

conformance with the Uniform System of Accounts (USOA). Mr. Carter testified that ConnectNow utilizes the Generally Accepted Accounting Principles (GAAP) and that the Commission will therefore have a reliable means by which to evaluate the operations. He further requested that ConnectNow be exempt from any requirements that the Company publish and distribute telephone directories under Regulation 103-631 and service area maps. ConnectNow will make arrangements with the incumbent ILECs whereby the names of its customers will be included in the directories published by the ILEC and these directories will be distributed to ConnectNow customers. After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. ConnectNow is organized and registered as a limited liability company under the laws of the State of South Carolina with the South Carolina Secretary of State.
2. ConnectNow intends to operate as a competitive facilities-based and resold local exchange telecommunications carrier and wishes to provide its services in South Carolina.
3. ConnectNow has the experience, capability, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280(B)(1) (Supp. 2002)
4. ConnectNow has agreed, through Mr. Carter's testimony, to revise its proposed tariff filed with the Commission by deleting the language contained in Section 2.5 of the proposed tariff and replacing it with language stating that: "The Company shall

comply with the Rules and Regulations contained in Public Service Commission of South Carolina's Telecommunications Regulations.”

5. ConnectNow will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280(B)(4) (Supp. 2002).

6. ConnectNow's provision of service will not adversely impact the availability of affordable local exchange service. S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2002).

7. ConnectNow will provide services which will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2) (Supp. 2002).

8. The Commission finally finds that the provision of local exchange service by ConnectNow “does not adversely impact the public interest,; S.C. Code Ann. Section 58-9-280(B)(5).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to ConnectNow to provide competitive resold and facilities-based local exchange services only to customers located in the non-rural areas of the state. The terms of the stipulation between ConnectNow and SCTC are approved, and attached as Order Exhibit 1. Therefore, any proposal to provide local telecommunications service to rural areas is subject to the terms of the stipulation.

2. ConnectNow shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed

with Staff and comporting with South Carolina law in all matters. ConnectNow's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to New South Communications in Commission Order No. 98-165, Docket No. 97-467-C. The Commission adopts for ConnectNow's competitive local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, ConnectNow's local exchange service filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. ConnectNow will only resell the services or lease the facilities of those companies authorized to provide telecommunications services in South Carolina by this Commission. If ConnectNow changes underlying carriers, it shall notify the Commission in writing.

4. ConnectNow shall conduct its business in compliance with Commission decisions and Orders, both past and future.

5. Title 23, Chapter 47 of the South Carolina Code of Laws Annotated governs the establishment and implementation of a "Public Safety Communications Center" which is more commonly known as a "911 system" of "911 Service." Services available through a 911 system include law enforcement, fire, and emergency medical

services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs ConnectNow to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Research and Statistics of the South Carolina Budget and Control Board. By this Order and prior to providing voice of dial-tone services within South Carolina, ConnectNow shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city had its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

6. The Federal Communications Commission (FCC) in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). This Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2001, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their

programmable phones to translate calls dialed as 711 to the assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 2, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. This Company must comply with the applicable mandates. For complete information on compliance with this FCC and Commission requirement, go to the Commission's website at www.psc.state.sc.us/forms.

7. ConnectNow shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, ConnectNow shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's web site at www.psc.state.sc.us/forms. This form is entitled "Annual Report for Competitive Local Exchange Carriers". Additionally, pursuant to the Commission's regulations, the Company shall file a CLEC Service Quality Quarterly Report with the Commission. The proper form for this report can be found at www.psc.state.sc.us/forms/default.htm.

8. ConnectNow shall file annually the Intrastate State Universal Service Fund (USF) worksheet due August 15 for calendar and fiscal year ending companies.

9. For good cause shown, ConnectNow is granted a waiver and is hereby authorized to keep its books and financial records in accordance with Generally Accepted Accounting Practices rather than the Uniform System of Accounts method.

10. For good cause shown, ConnectNow is granted a waiver of the requirement that the Company publish and distribute a directory under S.C. Code Ann. Regs. Reg. 103-631 and that it file service area maps with the Commission. ConnectNow is ordered to contact the incumbent ILECs to ensure that the Company's customers are included in the applicable directory and that such directories are distributed to ConnectNow's customers.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. ConnectNow shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's website www.psc.state.sc.us/forms; this form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

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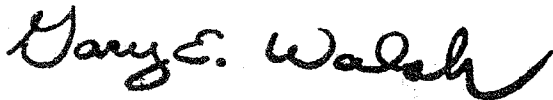
13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn, Chairman

ATTEST:



Gary E. Walsh, Executive Director

(SEAL)